

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/611,316	BOARIU ET AL.	
	Examiner	Art Unit	
	Alan T. Gantt	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 9/15/05.
2.  The allowed claim(s) is/are 1-20.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_.
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 9/15/05 have been fully considered and are deemed persuasive. Applicant primarily argues that the referenced prior art does not provide for determining power for each transmit antenna and that the scheduler is not involved in scheduling the quantity of power available for data transmission. Applicant argues that the Walton reference does not handle unused power delta. Applicant also argues against the combination of references that take on the global minimum cost function limitation. The examiner accepts applicant's detail arguments that provide distinctions between his invention and the referenced prior art.

### ***Allowable Subject Matter***

Claims 1-20 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding claims 1, 10, and 17, a method for scheduling weighted power transmissions from two or more transmit antenna of a base station to each of two or more mobile stations in a closed loop transmit diversity system for each combination set of mobile stations the computing of unused power delta with reference to the quantity of power available for data transmission from each transmit antenna and the power required to transmit data from each antenna to each respective mobile station in the set and the computing of a global cost from a global cost function with having as one of its variables, unused power delta was neither found, suggested, nor made evident by the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication from the examiner should be addressed to Alan Gantt at telephone number (571) 272-7878. The examiner can normally be reached between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (571) 273-8300.

Any inquiry of a general nature or relating to this application should be directed to Supervisory Patent Examiner Nay Maung at telephone number (571) 272-7882.

*Alan T. Gantt*

Alan T. Gantt

September 29, 2005

*N. M.*  
NAY MAUNG  
SUPERVISORY PATENT EXAMINER